IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 14559 of 2004

Between:

K. Thulasekhar Naidu, S/o. Gurrappa Naidu,
Kokavallavur Village, Chittoor Rural Mandal,
Chittoor District.

..... PETITIONER

AND

1 Sri Venkateswara University, rep by its Registrar, Tirupathi,

Chittoor District.
2 The Controller of Examinations, Sri Venkateswara University,
Tirupathi, Chittoor District.
3 The Directorate of Admissions, Sri Venkateswara University,
Rep by its Director, Tirupathi, Chittoor District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate writ, order or direction more particularly in the nature of Mandamus declaring the action of the respondents 1 & 2 in failing to consider the review of the punishment imposed upon me pursuant to the orders dated 06-08-2003 in pursuance of the orders of the Hon'ble High Court made in W.A. No. 699 of 2003 as illegal, irrational, arbitrary and violative of Articles 14, 19 1) (g), 21 of the constitution of India and consequently direct the respondents to review orders dated
6-8-2003 and allow the petitioner to continue in the P.G. course upon the admission made in the Post Graduation Course of M.Sc. Mathematics.

Counsel for the Petitioner : MR. N.PRAMOD

Counsel for the Respondents : MR. P.SREE RAMULU NAIDU, Standing Counsel

The Court made the following :

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O R D E R :

The petitioner is a student. When he was appearing for Third Year Examinations of B.Sc., on an allegation that he resorted to impersonation and appeared in the written Mathematics
Paper-II on behalf of one K.Giridhar Reddy, he was not allowed to appear in Computer Science Papers-III and IV. Subsequently, by order dated 6-8-2003, first respondent University cancelled the results of all the examinations and further debarred the petitioner from appearing for the subsequent examinations upto September, 2005. He was to appear from April, 2006 examinations and thereafter. Challenging the same, the petitioner filed a writ petition being W.P.No.19402 of 2003. A learned Single Judge of this Court dismissed the writ petition by order dated 12-3-2004. Aggrieved by the same, the petitioner preferred a Letters Patent Appeal being W.A.No.699 of 2004. The Division Bench upheld the orders of the University and giving liberty to the petitioner to make a representation on the punishment awarded, the Writ Appeal was disposed of by order dated 19-4-2004.

Aggrieved by the orders of Vice-Chancellor, the petitioner seems to have filed an appeal to the Executive Council, presumably under Section 42 of Andhra Pradesh Universities Act,1991 and the same is pending. In the meanwhile, the petitioner appeared for P.G. Entrance Test,2004 and obtained rank of 742 in 'OC category' for M.Sc. (Mathematics). As the rule requires production of the Provisional/Degree Certificate of the qualifying examination and Marks Memorandum, the petitioner impugned inaction of first respondent in considering his appeal against order dated 6-8-2003. Along with the writ petition, he also filed W.P.M.P.No.18746 of 2004 seeking a direction to the third respondent to permit the petitioner to attend the interview without insisting for production of Provisional/Degree Certificate, Marks Memorandum and Transfer Certificate.

Learned counsel for the petitioner raised only ground that having regard to observations of the Division Bench in W.A.No.699 of 2004, the Executive Council ought to have considered the question of punishment and that without any reason the same remained undisposed of, causing prejudice to the interest of the petitioner.

The Division Bench in its judgment and order dated 19-4-2004 while upholding the finding of misconduct recorded by the University, disposed of the Writ Appeal with the following observations.

We find some merit in the submission made by the learned counsel for the appellant. However, what punishment is required to be awarded and whether the punishment is required to be suitably modified by the University, is for the University to decide. The punishment awarded by the University is nothing but an integral part of the academic activity with which normally this Court in exercise of its jurisdiction under Article 226 of the Constitution of India would not interfere.

However, having regard to the tender age of the petitioner and also having regard to the fact that the petitioner has already suffered the punishment imposed by the University to a large extent, we consider it appropriate to direct the University to reconsider the issue relating to the punishment alone.

The finding of misconduct recorded by the University is accordingly upheld. The University shall bear in mind that the appellant had already completed even the final year of the three-year degree course, B.Sc. May be it is a fit case, where the University should take some fresh view and take an appropriate decision.

Be it noted that the petitioner's representation/appeal to the Executive Council was admittedly made even prior to the orders of the Division Bench. It is not known whether the orders of the Division Bench have been brought to the notice of the University or not? Further, it is brought to my notice that though the Executive Council meets once in three months, the representation/appeal of the petitioner has not been placed before the Executive Council. Therefore, as directed by this Court, the University ought to have considered the representation/appeal of the petitioner for reconsideration of the punishment imposed on the petitioner keeping in view the observations of this Court. It is also brought to my notice that the Executive Council is likely to meet soon in this month or in first week of September, 2004. In that case, it would be better if the matter is reconsidered by the Executive Council. The Registrar and the Controller of Examinations shall take necessary steps to place the matter before the Executive Council along with the judgments of the learned Single Judge as well as the Division Bench of this Court for reconsideration of the punishment imposed on the petitioner. As the petitioner has already availed the statutory remedy of appeal under Section 42 of the Act, it would not be proper for this Court to pass any orders in favour of the petitioner.

The writ petition, with the above observations, is disposed of. No costs.

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(V.V.S. RAO, J.)

Dt.17-08-2004.

Msr.

NOTE : Office to issue a copy of this

order within one week.

B/o.

Msr.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Registrar, Sri Venkateswara University, Tirupathi,

Chittoor District.
2 The Controller of Examinations, Sri Venkateswara University,
Tirupathi, Chittoor District.
3 The Director, Directorate of Admissions, Sri Venkateswara

University, Tirupathi, Chittoor District.

4. 2CD copies

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.14559 of 2004

Dt.17-08-2004.

(Msr)